APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/287,214	04/05/1999	JOSEPH MIDDLETON	CISCP628	6022

26541   7590   06/05/2003

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EXAMINER
HOANG, PHUONG N

ART UNIT	PAPER NUMBER
2126	6

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 April 1999</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 - 20</u> is/are pending in the application.

4a) Of the above claim(s) <u>1 - 13</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>14 - 20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

During a telephone conversation with Dan Lang on 5/27/03 a provisional election

was made without traverse to prosecute the invention of Middleton et al, claims 14 - 20.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 1 - 13 withdrawn from further consideration by the examiner, 37 CFR 1.142(b),

as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

Claims 14 – 20 are rejected under 35 U.S.C. 112, first paragraph, because the

specification, while being enabling for "transferring data", does not reasonably provide

enablement for "without moving data". The specification does not enable any person

skilled in the art to which it pertains, or with which it is most nearly connected, to the

invention commensurate in scope with these claims.   As best, examiner understands

that transferring the pointer address instead of transferring data.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rozario, US patent no. 6,253,262.

As to claim 14, Rozario teaches dynamically partitioning (dynamic allocate of new requests into the buffer based on the priority of the new request, col. 10 lines 35 – 41) into a plurality of priority lists, directing a new data belonging to a highest priority list (the new access request is a high priority request,.... Before all the low priority requests, col. 5 lines 25 – 38), reading data from a highest priority (read is occurring alone, the output of the gate 158 is high, col. 7 lines 15 – 20) non-empty priority list (inherent), transferring data read without moving data (if re-ordering is necessary (YES), a selected number of requests, preferably associated with lower priority access requests, are shifted within the buffer 102 to make room for the new request at step 240, col. 11 lines 50 - 55).

Rozario does not explicitly teach transferring data after reading.

It would have been obvious for one skilled in the art to modify Rozario's system to transfer data after reading because it saves space for highest priority list.

Claims 15 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozario, US patent no. 6,253,262 in view of Sherlock, US patent no. 6,269,413.

As to claim 15, Rozario teaches write pointer (write pointers, col. 5 lines 56 – 67). Rozario does not explicitly teach a plurality of read pointers.

Sherlock teaches a plurality of read pointers (read and write pointers, col. 4 lines 37 – 45).

It would have been obvious to apply the teaching of Sherlock to Rozario's system because the read pointers support dynamic allocation.

As to claim 16, Rozario modified by Sherlock teaches writing data to a location in the memory determined by write pointer (it is the functionality of write pointer) and incrementing the write pointer (each write operation .... Increment, col. 9 lines 26 – 35).

As to claim 17, Rozario modified by Sherlock teaches reading data from a location determined by read pointers (it is functionality of read pointer) corresponding to the highest priority non-empty list (see explained in claim 14).

As to claim 18, Sherlock teaches a count register (register, col. 1 – 10).

As to claim 19, Sherlock teaches incrementing the read pointer, count registers (increment one of read counter, col. 9 lines 26 – 36).

As to claim 20, it would have been obvious for one skilled in the art to modify the system the increment the counter only after a delay because it is a design choice.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong N. Hoang whose telephone number is (703) 605-4239. The examiner can normally be reached on Monday - Friday 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (703)305-8498. The fax phone

numbers for the organization where this application or proceeding is assigned are

(703)746-7239 for regular communications and (703)746-7238 for After Final

communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703)746-

7140.

ph
May 28, 2003